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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,784	01/26/2001	Hartmut Breuninger	1998CH017	5014

25255 7590 10/23/2002

CLARIANT CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
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CHARLOTTE, NC 28205

EXAMINER

ELHILO, EISA B

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/744,784

Applicant(s)

BREUNINGER ET AL.

Examiner

Eisa B Elhilo

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-- The MAILING DATE of this communication appears on th cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

- 1 This action is responsive to the response faxed on August 7, 2002.
- 2 The rejection of claims 12-15 under 35 U.S.C. 102(b) as being anticipated by Mitsubishi Kasei Corp. (JP 06073320), is maintained for the reasons set forth in the previous office action in paper No. 4, dated 5/10/2002.
- 3 The rejection of claims 16-22 under 35 U.S.C. 103(a) as being unpatentable over Mitsubishi Kasei Corp. (JP 06073320) in view of Dainippon Ink and Chem. KK (JP 58-198570), is maintained for the reasons set forth in the previous office action in paper No. 4, dated 5/10/2002.

Response to Applicant's Arguments

- 4 Applicant's arguments filed 8/7/2002 have been fully considered but they are not persuasive.

With respect to the rejection based upon Mitsubishi (JP' 320), Applicant argues that the reference does not teach a reactive dye that contains at least one substituent capable of forming a covalent bond with the fiber on which it is applied and therefore, Mitsubishi Corporation fails to anticipate the claims.

The examiner respectfully disagrees with the above arguments because the reference teaches an aqueous recording fluid comprising a reactive dye having a formula similar to those recited in the claimed invention (see specification page 10 and 11, Examples 2 and 3) and should have same properties as those disclosed in the specification. Further, in response to applicant's argument that the reference fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a reactive dye that contains at least one substituent

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capable of forming a covalent bond with the fiber on which it is applied) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore, Mitsubishi anticipates the claims.

With respect to the rejection based upon Mitsubishi (JP' 320) in view of Dainippon Ink and Chem Kk (JP' 570), Applicant argues that there is no teaching in either reference or any suggestion that these references can be or should be combined.

The examiner respectfully disagrees with the above arguments because Mitsubishi (JP' 320) as a primary reference teaches an aqueous dyeing composition by mixing an aqueous medium with a specified dye (see abstract) and Dainippon Ink (JP' 570) teaches pigment composition used in aqueous paints and inks comprising reactive dyes such as monoazo, disazo isoindolenone or dioxazine dyes (see abstract) and, thus, the combination is proper since both references teach and disclose aqueous dyeing compositions comprising soluble dye components. Therefore, the prima facie case of obviousness has been established.

5 **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Elhilo

October 9, 2002


YOGENDRA N. GUPTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700